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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/704,400	08/27/1996	RENATE M. SOMBROEK	PHN14.491A	9135

7590

08/07/2002

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EXAMINER

BRIER, JEFFERY A

ART UNIT

PAPER NUMBER

2672

DATE MAILED: 08/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/704,400

Applicant(s)

SOMBROEK ET AL.

Examiner

Jeffery A. Brier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet. Copy of Kato translation

Continuation of Attachment(s) 6). Other: copy of Kato Japanese No. 1-200285 translation.

DETAILED ACTION

Response to Amendment

1. The 06/17/2002 amendment has been entered. Claims 3-7, 9 and 12-17 have been cancelled. Newly presented claims 18-23 are the only pending claims.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 20-23 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 20 is not supported by the originally filed specification because the originally filed specification described the user interface as having the circuitry necessary to measure the duration of the continuous use of the user interface, page 6 lines 14-26 and page 8 lines 9-20. Claim 20 is further not supported by the originally filed specification because the last portion of claim 20 *operative to measure predetermined time intervals in terms of a number of the events* was not described in the specification at the time of filing. The specification described measuring the number of first steps at page 8 line 16 and did not describe measure time intervals in terms of a number of events. Claims 21 and 23 depend upon claim 20

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and they do not comply with 35 U.S.C. 112, first paragraph for the same reasons that claim 20 does not comply.

Claim 22 is not supported by the originally filed specification because the originally filed specification did not describe the first speed or the second speed as being variable. The specification describes a first set speed and a second set speed. A variable first speed or a variable second speed was not described.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato, Japanese patent application publication no. 1-200285, in view of Takahashi, U.S. Patent No. 5,153,571.

Kato teaches a cursor controller that moves a cursor at one speed for a first duration of continuous activation of the user interface and then in response to continued continuous activation of the user interface after the first duration has elapsed, moves the cursor at a second higher speed.

Kato does not explicitly teach a third speed higher than the second speed nor does Takahashi perform determination of the cursor speed at the user interface.

The Board of Patent Appeals decided that determining the cursor speed at the user interface was obvious.

Thus, the issue to be decided with regards to claim 18 is: would it have been obvious to one of ordinary skill in the art at the time of applicants invention to have a third higher speed.

Takahashi teaches at column 4 lines 42-66 manually setting the cursor speed to be one of seven speeds.

It would have been obvious to one of ordinary skill in the art at the time of applicants invention to add a third speed to Kato because Takahashi teaches that more than two speeds are desirable, note column 4 lines 53-66.

Claim 19:

This claim claims defines the user interface as transmitting data effecting the first speed and transmitting data effecting the second speed to the cursor controller. The Board of Patent Appeals decided that a user interface sending low and high speed data was obvious. Since this claim in essence is claiming the same issue decided by the Board of Patent Appeals this claim is obvious for the same reasons given by the Board of Patent Appeals.

Claim 20:

Kato's cursor controller measures the time the user interface is continuously operated.

Claim 21:

This claim is taught by Kato.

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Claim 22:

When the user stops continuous movement of Kato's user interface the speed of the cursor will no longer be at the high speed, thus, the speed of the cursor is variable based upon the user's manipulation of the user interface device.

Claim 23:

Kato's counter is resetable, see translated figure 2 method step A6.

Response to Arguments

6. Applicant's arguments with respect to claims 18-23 have been considered but are moot in view of the new ground(s) of rejection.

7. On page 4 of applicant's remarks applicant states .

As understood by Applicants, the Abstract of JP 401200285 (Kato), cited in the January 156, Office Action, relates to a cursor movement controller in which the moving speed of a cursor is increased at the time of continuously depressing a cursor key for a prescribed time or longer.

Thus, it appears that applicant does not have the translation of Kato. A translation of Kato is being provided with this office action.

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A. Brier whose telephone number is (703) 305-4723. The examiner can normally be reached on M-F from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (703) 305-4713).

Any response to this action should be mailed to:


Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.


Jeffery A Brier
Primary Examiner
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